

No. 14 of 2005.

*Income Tax (2006 Budget Provisions Amendment) Act 2005.*

Certified on: 26.12.05



INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 2005.

*Income Tax (2006 Budget Provisions Amendment) Act 2005.*

ARRANGEMENT OF SECTIONS.

1. New Section 25B.  
**“25B. EXEMPTION OF BODIES INVOLVED IN PROVIDING AID TO THE VICTIMS OF THE MANAM ISLAND VOLCANIC DISASTER AND THE ASIAN TSUNAMI DISASTER.”**
2. Non-Application of this Division (Amendment of Section 66A).
3. New Section 69L.  
**“69L. DEDUCTION FOR DONATIONS FOR THE MANAM ISLAND VOLCANIC DISASTER AND THE ASIAN TSUNAMI DISASTER.”**
4. Double Deduction for Export Market Development Costs (Amendment of Section 72C).
5. Depreciation (Amendment of Section 73).
6. Expenditure on Scientific Research (Amendment of Section 95).
7. Losses of Previous Years of Amalgamating Company on Amalgamation (Amendment of Section 145I).
8. Interpretation (Amendment of Section 155).
9. Adjustment of Deductions on Disposal of Right or Information (Amendment of Section 155L).
10. Repeal and replacement of Section 189D.
11. Rebate of Salary or Wages Tax (Amendment of Section 214).
12. Credits in Respect of Prescribed Infrastructure Development (Amendment of Section 219C).



INDEPENDENT STATE OF PAPUA NEW GUINEA

No. of 2005.

AN ACT

entitled

*Income Tax (2006 Budget Provisions Amendment) Act 2005,*

Being an Act to amend the *Income Tax Act 1959*,

MADE by the National Parliament.

1. **NEW SECTION 25B.**

The Principal Act is amended by inserting after Section 25A the following new section:-

**“25B. EXEMPTION OF BODIES INVOLVED IN PROVIDING AID TO THE VICTIMS OF THE MANAM ISLAND VOLCANIC DISASTER AND THE ASIAN TSUNAMI DISASTER.**

(1) The income of an approved body or institution established to help the victim of or in the reconstruction efforts of those affected by the Manam Island volcanic disaster of 24<sup>th</sup> October 2004 and/or the Asian tsunami disaster of 26<sup>th</sup> December 2004 is exempt from income tax.

“(2) For the purposes of Subsection (1), an institution or body may be approved by the Commissioner General by a notice in the National Gazette where –

- (a) it is evidenced by an irrevocable trust deed duly executed or by a certificate of incorporation ; and
- (b) no benefit accrues to the settlor of the trust or the trustee or to the office bearers of the association or body; and
- (c) the whole of the income or receipts is utilised for the purposes of providing aid or relief to the victims of the Manam Island volcanic disaster or the Asian tsunami disaster; and

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- (d) the unutilised funds as on the 31<sup>st</sup> of December 2005 is transferred to the "Tsunami Disaster Nationwide Appeal Trust Account" of the Government or to the account of the Red Cross Society of PNG; and
- (e) regular books of accounts are maintained."

"(3) An institution or body shall be allowed exemption under Subsection (1) for the period from 24<sup>th</sup> October 2004 to 31<sup>st</sup> December 2005."

**2. NON-APPLICATION OF THIS DIVISION (AMENDMENT OF SECTION 66A).**

Section 66A of the Principal Act is amended in Subsection (2) by inserting after the figure and letter "69E" (twice occurring) the following figures and letters respectively:-

"69H, 69K, 69L".

**3. NEW SECTION 69L.**

The Principal Act is amended by inserting after Section 69K the following new section:-

**"69L. DEDUCTION FOR DONATIONS FOR THE MANAM ISLAND VOLCANIC DISASTER AND THE ASIAN TSUNAMI DISASTER.**

(1) Subject to Subsection (2), a gift of money or property other than money made to a body approved by the Commissioner General to provide aid to the victims of the Manam Island volcanic disaster and the Asian tsunami disaster, shall be an allowable deduction.

"(2) Section (1) applies –

- (a) to a gift whose value exceeds K500.00; and
- (b) in the case of a gift of property other than money, where the property was acquired by the taxpayer in the 12 months immediately preceding the making of the gift."

"(3) This section applies to gifts made in the period 24<sup>th</sup> October 2004 to 31<sup>st</sup> December 2005."

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**4. DOUBLE DEDUCTION FOR EXPORT MARKET DEVELOPMENT COSTS (AMENDMENT OF SECTION 72C).**

Section 72C of the Principal Act is amended by –

(a) in Subsection (1) –

(a) by repealing the definition of “export market development expenditure” and replacing it with the following:-

““export market development expenditure” means specified outgoings incurred primarily and principally for the purpose of seeking opportunities, or creating and increasing demand, for –

(a) the export from Papua New Guinea of goods that have been manufactured in Papua New Guinea, but excludes specified outgoings incurred in promoting the sale of goods manufactured or produced outside Papua New Guinea, if the labour costs incurred in processing the goods in Papua New Guinea are less than 10% of the sale price; or

(b) the development of tourism within Papua New Guinea, but does not include so much of any outgoings incurred by a person as –

(c) has been, or is to be, paid or reimbursed to the taxpayer by another person; or

(d) is incurred in or in connection with services or doing anything for which the taxpayer has been, or is to be, paid by another person;” and

(ii) by repealing the definition of “specified outgoings” and replacing it with the following:-

““specified outgoings” means outgoings incurred by a taxpayer by way of –

(a) expenses incurred in respect of publicity and advertisements in any media outside Papua New Guinea; or

(b) expenses directly attributable to the provision of samples without charge to prospective customers outside Papua New Guinea including the cost of delivery of the samples; or

(c) expenses directly attributable to carrying out market research related to the export of goods, or the promotion of tourism in Papua New Guinea, or the obtaining of export marketing information; or

(d) expenses directly attributable to the preparation of tenders for the supply of goods to prospective customers outside Papua New Guinea; or

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- (e) expenses by way of fares in respect of travel to a country outside Papua New Guinea by a specified agent of the taxpayer, being travel necessarily undertaken for the purpose of negotiating or concluding contracts for sale of goods on behalf of the company or for the purposes of participating in trade fairs or industrial exhibitions or tourism fairs and actual expenses, subject to a maximum of K400.00 per day, for accommodation and sustenance for the whole of the period commencing with the specified agent's departure from Papua New Guinea and ending with his return to Papua New Guinea; or
- (f) expenses for giving technical information to persons outside Papua New Guinea relating generally to manufactured goods from Papua New Guinea offered for sale, excluding expenses for giving technical information to purchasers after purchase; or
- (g) expenses directly attributable to the provision of exhibits for trade fairs or industrial exhibits or tourism related fairs or expositions; or
- (h) expenses for services rendered for public relations work connected with export or tourism; or
- (i) expenses directly incurred for participation in trade fairs or industrial exhibitions or tourism fairs, other than expenses specified in Paragraphs (e) and (g); or
- (j) expenses for the cost of maintaining sales offices overseas for the promotion of exports from Papua New Guinea or tourism within Papua New Guinea; or
- (k) expenses incurred by a local manufacturer directly attributable to the costs of travel of *bona fide* buyers or potential buyers from a foreign country, where the purpose of the travel is to purchase, or investigate the possibilities of purchase, of locally manufactured goods in commercial quantities for export from Papua New Guinea; or
- (l) expenses incurred by a local tourism operator directly attributable to costs incurred in bringing travel agents or other tourism related sales representatives to Papua New Guinea for the purpose of promoting tourism within Papua New Guinea.”.

(b) by repealing Subsection (4) and replacing it with the following:-

“(4) Subject to this section, a deduction is allowable for expenditure incurred –

- (a) after 1 September 1984 for export market development; and

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(b) after 31 December 2005 for the development of tourism within Papua New Guinea.”.

**5. DEPRECIATION (AMENDMENT OF SECTION 73).**

Section 73 of the Principal Act is amended in Subsection 2, in the definition of “eligible property”, by adding, after Paragraph (c) the following new paragraph:-

“(ca) on or after 1 January 2006, for the purposes of tourism within Papua New Guinea, falling within Tabulation Categories 5510 of the International Standard Industrial Classification of all Economic Activities published in 1990 under Revision 3,”.

**6. EXPENDITURE ON SCIENTIFIC RESEARCH (AMENDMENT OF SECTION 95).**

Section 95 of the Principal Act is amended by inserting after Subsection (10) the following new subsection:-

“(11) A taxpayer dissatisfied with a decision made under this section or the Regulations applicable to this section, may make an application to the Review Tribunal for Review of that decision, in the same manner as set out in Division V.2.”.

**7. LOSSES OF PREVIOUS YEARS OF AMALGAMATING COMPANY ON AMALGAMATION (AMENDMENT OF SECTION 145I).**

Section 145I of the principal Act is amended by repealing Paragraphs (b) and (c) and replacing them with the following:-

- “(b) in a case where the amalgamation is not covered by Paragraph (a), the loss shall be allowed as deduction to the amalgamated company only if there is either –
- (i) at least 50% shareholder continuity in the amalgamating company from the beginning of the year in which loss was incurred until the date of amalgamation; or
  - (ii) the business carried on by the amalgamated company at the time the loss was incurred and at the time a deduction is claimed would meet the continuity of business test expressed in Section 101G; and
- (c) for the amalgamated company to offset the loss against its income, either –
- (i) the 50% shareholder continuity test; or
  - (ii) the continuity of business test,
- must be met from the beginning of the year in which loss was incurred until the date of deduction.”.

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**8. INTERPRETATION (AMENDMENT OF SECTION 155).**

Section 155 of the Principal Act is amended in Subsection (1) by inserting after the definition of "exploration activities" the following new definition:-

"exploration expenditure" means expenditure incurred for the purpose of exploration in Papua New Guinea pursuant to an exploration licence which would be allowable exploration expenditure of a taxpayer in relation to a resource project under Section 155A, had a resource development licence been issued immediately after the expenditure was incurred;"

**9. ADJUSTMENT OF DEDUCTIONS ON DISPOSAL OF RIGHT OR INFORMATION (AMENDMENT OF SECTION 155L).**

Section 155L of the Principal Act is amended –

(i) in Subsection (1)(a) by adding immediately after words 'has incurred' the following:-

"exploration expenditure,"; and

(ii) in Subsection (2) by deleting the words "two months" and replacing them by the following:-

"four months"; and

(iii) Subsection (3) by deleting Paragraph (a) and replacing it with the following:-

"(a) to the extent the consideration payable by the purchaser for the acquisition constitutes exploration expenditure of the purchaser –

- (i) the amount of such consideration; and
- (ii) the resource right or rights of the purchaser to which the exploration expenditure relates, and if more than one the allocation of that exploration expenditure between them; and
- (iii) the subject matter of the acquisition; and
- (iv) the extent to which expenditure by the vendor on the subject matter of the acquisition was exploration expenditure of the vendor; and"; and

(iv) in Subsection (4) by inserting after Paragraph (b) the following new paragraph:-

"(c) exploration expenditure of the vendor shall not exceed the sum of –

- (i) the amount which is or has been included in the assessable income of the vendor as a result of the disposal of the resource right, resource information or interest in the resource project as a consequence of recoupment of exploration expenditure; and
- (ii) the undeducted amounts of exploration expenditure of the vendor attributable to the resource right, resource information or interest disposed of, immediately before the disposal."; and



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- (v) In Subsections (6) by repealing Paragraphs (a) and (b) and replacing them with the following:-
- “(a) in respect of the acquisition of a resource development licence, on the date of the acquisition the amount (if any) of allowable exploration expenditure and allowable capital expenditure specified in the notice; and
  - (b) in respect of the acquisition of an exploration licence, on the date on which it was actually incurred or deemed incurred by the vendor and in relation to the area of the resource right or rights nominated in the notice, the exploration expenditure specified in the notice.”; and
- (vi) in Subsection (10) by adding immediately before the words “allowable exploration expenditure” the following :-
- “exploration expenditure”.

**10. REPEAL AND REPLACEMENT OF SECTION 189D.**

Section 189D of the Principal Act is repealed and is replaced with the following-

**“189. CERTAIN INCOME NOT INCLUDED IN ASSESSABLE INCOME.**

Income upon which dividend (withholding) tax is payable and has been paid is not included in the assessable income of -

- (a) a person who is a non-resident; or
- (b) an individual who is a resident; or
- (c) a resident trust estate.”.

**11. REBATE OF SALARY OR WAGES TAX (AMENDMENT OF SECTION 214)**

Section 214 of the Principal Act is amended in Subsection (1)(a)(ii) by inserting after the figure and letter “69J” the following:-

“69K, 69L”.

**12. CREDITS IN RESPECT OF PRESCRIBED INFRASTRUCTURE DEVELOPMENT (AMENDMENT OF SECTION 219C).**

The Principal Act is amended in Section 219C(2)(a) by repealing Subparagraph (ii) and replacing it with the following:-

- “(ii) primary production, 1.5% of the assessable income derived in the year of income 2006 or in subsequent years; or”

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I hereby certify that the above is a fair print of the ***Income Tax (2006 Budget Provisions Amendment) Act 2005*** which has been made by the National Parliament.

*Clerk of the National Parliament.*

I hereby certify that the ***Income Tax (2006 Budget Provisions Amendment) Act 2005*** was made by the National Parliament on 22 November 2005.

*Speaker of the National Parliament.*